

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 329

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DUGGER (Sponsor) AND CRAWFORD (Co-sponsor).

1232H.01P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 408.590, 408.592, and 408.600, RSMo, and to enact in lieu thereof two new sections relating to residential real estate loan violations reporting, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 408.590, 408.592, and 408.600, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 408.590 and 408.600, to read as follows:

408.590. 1. [Each division director shall cause each state financial institution which he  
2 supervises, licenses or charters and which has an office within a county or a city, such county or  
3 city having a population in excess of two hundred fifty thousand, to be examined periodically  
4 during which examination the following shall be determined:

5 (1) The number and total dollar amount of residential real estate loans originated,  
6 purchased, or foreclosed by the financial institution after January 1, 1980, in each of the  
7 following categories:

8 (a) Loans secured by residential real estate located outside the state of Missouri other than  
9 in counties contiguous to the state of Missouri;

10 (b) Loans secured by residential real estate located in the state of Missouri or in the  
11 counties of other states which counties are contiguous to the border of the state of Missouri,  
12 which number and dollar amount shall be further reported by the county in which the property  
13 is located;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (2) The number of residential real estate loan applications denied by the institution in  
15 which the real estate which was to secure the loan is situated in a county or city with a population  
16 in excess of two hundred and fifty thousand by such county or city;

17 (3) By a method to be determined by each division director, such facts as will enable the  
18 division director to conclude whether or not the institution has engaged or is engaged in any  
19 practice in violation of sections 408.570 to 408.600.

20 2. Each division director may issue such regulations as are necessary to require the  
21 maintenance of records from which the conclusions required by this section can be determined.

22 3. Each division director shall report annually to the governor and the director of the  
23 department his findings made in accordance with the provisions of this section and which shall  
24 include information reported under the provisions of the Federal Home Mortgage Disclosure Act  
25 (12 U.S.C. 2801 et seq.), which findings shall be made as to the total industry he regulates, and  
26 by each county or city with a population in excess of two hundred fifty thousand. This report  
27 shall be maintained by the division as a public document for a period of five years.

28 4. The annual reports of the division directors shall state the method or methods used by  
29 the division director to reach his conclusions both in examination and analysis; and shall contain  
30 such facts as he deems necessary to support those conclusions, including but not limited to:

31 (1) The information required to be obtained by the provisions of subsection 1 of this  
32 section;

33 (2) **As to the state financial institutions under the supervision of the respective**  
34 **divisions, each division director shall report annually to the governor and the director of**  
35 **the department, with regard to each county or city with a population in excess of two**  
36 **hundred fifty thousand the following:**

37 (1) The number and type of violations of sections 408.570 to 408.600 which are found  
38 to have occurred, a statement of the action or actions taken to enforce the provisions of said  
39 sections, and the names of the financial institutions which have been found upon a hearing to  
40 have violated the provisions of said sections[.] ; **and**

41 [(3)] (2) The number and nature of all complaints received by the department or division  
42 regarding alleged violations of any provision of sections 408.570 to 408.600 and the action taken  
43 on each complaint by the division.

44 **2. This report shall be maintained by each division as a public document for a**  
45 **period of five years.**

408.600. 1. Each division director shall enforce the provisions of sections 408.570 to  
2 408.600. With respect to state financial institutions which he supervises, licenses or charters,  
3 each division director shall utilize the powers granted him under the general statutory authority  
4 by which he regulates, supervises, licenses, or charters such institutions, as well as the powers

5 granted him by sections 408.570 to 408.600. The director of the division of finance shall enforce  
6 the provisions of sections 408.570 to 408.600 as they pertain to state financial institutions not  
7 supervised, licensed or chartered by a division director, and shall in that enforcement have such  
8 powers as are granted in said sections. The enforcement powers granted by subsections 2 through  
9 5 of this section shall be utilized by the director of the division of finance concerning national  
10 banks, by the director of [savings and loan supervision] **the division of finance** concerning  
11 federal savings and loan associations, and by the director of credit unions concerning federal  
12 credit unions.

13         2. Any person who alleges to have been aggrieved as a result of a violation of section  
14 408.575 or 408.580 may file a complaint with the appropriate division director. Within ninety  
15 days of the receipt of such complaint, the division director shall determine whether there is any  
16 reason to believe that a violation of section 408.575 or 408.580 has occurred. If the division  
17 director determines that there is such reason, then he shall undertake to resolve the complaint by  
18 negotiation or he shall conduct a hearing in accordance with the provisions of subsection 3 of  
19 this section, except that the hearing shall be held in the locality where the alleged violation  
20 occurred.

21         3. If the division director[, on the basis of an examination, an investigation of a complaint  
22 which has not been resolved by negotiation, a report required to be filed by section 408.592, or  
23 any public document or information,] has reason to believe that a violation of section 408.575  
24 or 408.580 has occurred or does exist, the division director shall conduct a hearing in accordance  
25 with chapter 536. If the evidence establishes a violation of any provision of section 408.575 or  
26 408.580, the division director may issue a cease and desist order stating specifically the unlawful  
27 practice to be discontinued, which order shall be served personally, or by certified mail. The  
28 decision of the division director shall be appealable directly to the circuit court pursuant to  
29 chapter 536.

30         4. If, after an order of the division director has become final, the director believes a  
31 violation of any provision of the order has occurred, he may seek an injunction to prohibit such  
32 violations in any court of competent jurisdiction. For each violation of such injunction, the court  
33 may assess a fine which may be recovered with costs by the state in any court of competent  
34 jurisdiction in an action to be prosecuted by the attorney general.

35         5. The remedies provided by this section shall not be interpreted as exclusive remedies  
36 but shall be in addition to remedies otherwise available to the director or to any individual  
37 damaged by a violation of sections 408.570 to 408.600.

2                 [408.592. 1. Each state financial institution which is not supervised,  
3 licensed or chartered by a division director, which operates or has a place of  
4 business within a county having a population in excess of two hundred fifty  
thousand or a city not within a county and which originated an aggregate of five

5 hundred thousand dollars or more in residential real estate loans in Missouri  
6 during the last calendar year shall, on or before a date of ninety days after the end  
7 of the fiscal year of the institution, file with the director of the division of finance  
8 an annual statement for each such county or city showing separately the number  
9 and total dollar amount of residential real estate loans both within and outside of  
10 that county or city which were:

- 11 (1) Originated by that institution during the preceding fiscal year;
- 12 (2) Purchased by that institution during the preceding fiscal year; and
- 13 (3) Foreclosed by that institution during the preceding fiscal year.

14 2. The information required to be filed under subsection 1 of this section shall  
15 be further itemized in order to clearly and conspicuously disclose the following:

16 (1) The number and dollar amount of each item by census tracts for residential  
17 real estate loans on property located within that county or city;

18 (2) The number and dollar amount of each item for all residential real estate loans  
19 on property located outside that county or city.

20 3. The information required to be filed under subdivisions (1) and (2) of  
21 subsection 1 shall also be itemized in order to clearly and conspicuously disclose the  
22 following:

23 (1) The number and dollar amount of loans made for the purchase of residential  
24 real estate which are insured under Title II of the National Housing Act or under Title V  
25 of the Housing Act of 1949 or which are guaranteed under Chapter 37 of Title 38, United  
26 States Code;

27 (2) The number and dollar amount of loans made for the purchase of residential  
28 real estate, including loans insured under federal housing insurance programs;

29 (3) The number and dollar amount of loans made for the repair, rehabilitation or  
30 remodeling of residential real estate.

31 4. Each statement filed under the provisions of this section shall be filed on forms  
32 approved or furnished by the director of the division of finance and shall be verified by  
33 two officers of the institution. Wherever possible, the director of the division of finance  
34 shall make the forms consistent with the disclosure forms required under the Federal  
35 Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.).

36 5. The director of the division of finance shall maintain the statements filed under  
37 the provisions of this section for a period of not less than five years and shall make the  
38 statements available to the public for inspection during regular business hours and for  
39 copying at a cost not to exceed the actual cost to the division.]

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